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Sent: Monday, August 28, 2006 2:39 PM  
Cc: Pat\_Verschelden@kdor.state.ks.us  
Subject: Proposed Sampling Regulation

Here are my concerns:

1. The current language is limited to assessments. What if the sample item is an overpayment? I believe the "may use" language allows a state not to sample for credits.
2. The "generally recognized" language was removed by the uniformity subcommittee because we didn't want to hold states to a high financial auditing standard. I don't think the financial auditing standard is too high and a state auditor should have some burden of showing that the results are reliable.
3. The current regulation language calls for a statistical sample if the records are substantially complete and an other type of sampling technique if the records are inadequate. First of all, what does substantially mean? What if the electronic records are complete but invoices are missing? What percentage of records have to be available? Second, we and the MTC often do block samples even though the taxpayer's records are substantially complete. The current language seems too restrictive.
4. The regulation does not require consent of the taxpayer but it would carry more weight if the wording was in the statute.
5. Part 2 of the regulation is full of undefined adjectives making it difficult to administer and increasing chances of litigation. I would get rid of such ambiguous language but at a minimum make it clear that the state makes the determination.
6. It would appear that the records have to be inadequate before a state can do a block sample which is too restrictive.